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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/650,134

08/29/2000

Ronald Hage

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08/29/2003

UNILEVER
PATENT DEPARTMENT
45 RIVER ROAD
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EXAMINER

DELCOTTO, GREGORY R

ART UNIT

PAPER NUMBER

1751

DATE MAILED: 08/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

09/650,134

Applicant(s)

HAGE ET AL.

Examiner

Gregory R. Del Cotto

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Amend. filed 6/5/03.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 and 18-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4-14, 16, 18-20 and 22-25 is/are rejected.
- 7) ☒ Claim(s) 3, 15 and 21 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other:

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DETAILED ACTION

1. Claims 1-16 and 18-25 are pending. Note that, Applicant's arguments and amendments filed 6/5/03 have been entered.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 2, 4-6, 9-14, 16, 18-20, and 22-25 are rejected under 35 U.S.C. 102(b) as being anticipated by WO 97/38074.

'074 is relied upon as set forth in Paper #8. Accordingly, the broad teachings of '074 anticipate the material limitations of the instant claims.

Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 97/38074 for the reasons of record set forth in Paper #8.

Claims 1, 2, 4-14, 16, 18-20, and 22-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 95/34628 or WO 97/48787 for the reasons of record set forth in Paper #12.

Response to Arguments

Note that, the Examiner's arguments in response to Applicant's comments are substantially the same as set forth in Paper #25.

With respect to '628 or '787, Applicant states that the molecular oxygen as taught by '628 or '787 is not the same as atmospheric oxygen as recited by the instant claims and that were the reference to have meant atmospheric oxygen it would have simply stated that the catalyst would need no peroxide generating system at all. In response, note that, the Examiner still sees no distinction between the molecular oxygen and atmospheric oxygen as recited by the instant claims. The oxygen in the air is the same as molecular oxygen. Furthermore, the bleaching effect of the catalyst by using air is dependent upon the particular type of catalyst chosen and not the oxygen itself. The

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fact that the catalyst bleaches when exposed to air is a property which is inherent to the particular type of catalyst chosen. Regardless of whether oxygen is from the air or called molecular oxygen which may be sourced from the air or another source, the oxygen is the same. Furthermore, Applicant states that the bleaching system containing aldehydes as disclosed by WO 97/38074 is the same as the molecular oxygen as suggested by '628 or '787. In response, note that, while the publications have the same assignee, there is no disclosure in either '628 or '787 of the use or necessity of an aldehyde.

Additionally, even though '074 teaches the use of aldehydes, the Examiner maintains that the instant claims do **not exclude** the use of aldehydes but only state that the complex catalyzes the bleaching of a substrate by atmospheric oxygen without the use or consumption of aldehydes. The instant claims are not worded in such a way that aldehydes are actually excluded from the compositions as recited by the instant claims; they claims are worded in such a way that catalyzing bleaching "without the use and consumption of aldehydes" is the statement of an inherent property of the bleach catalysts and not a negative limitation of the composition. Thus, since '074 teaches the same bleach catalysts as recited by the instant claims, the Examiner asserts that these catalysts would have the same bleaching properties without the use or consumption of aldehydes as recited by the instant claims, even though '074 may recognize the fact that aldehydes enhance such a bleaching effect. Furthermore, '074 teaches that the molecular oxygen bubbled through the solution may be from air.

Allowable Subject Matter

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Claims 3, 15 and 21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

None of the references of record, alone or in combination, teach or suggest a bleaching composition or method of bleaching wherein at least 50% of the bleaching is accomplished through atmospheric oxygen using the specific bleach catalyst as recited by the instant claims.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory R. Del Cotto whose telephone number is (703) 308-2519. The examiner can normally be reached on Mon. thru Fri. from 8:30 AM to 6:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on (703) 308-4708. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

GRD
August 25, 2003

GREGORY DELCOTTO
PRIMARY EXAMINER

